
BZA-1853
ANDREW S. GUTWEIN
Variance

STAFF REPORT
April 19, 2012

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, representing and with consent of owner, Westridge Pointe Apartments, LLC, is requesting a variance to permit 35 parking spaces instead of the required 47 to remodel & enlarge existing apartment units; the number of bedrooms (60) will not increase. The property, located in the University-proximate area, is a multi-family building located on the south side of Wiggins Street between Salisbury and Littleton, specifically 249 Littleton Street, in West Lafayette, Wabash 20 (NW) 23-4. (UZO 4-6-3)

AREA ZONING PATTERNS:

The subject property is zoned R3W, as is most of the surrounding area.

Fowler Street (US 231 westbound) forms the southern boundary of the New Chauncey Neighborhood and represents the zoning boundary between R1U (Urban single-family residential) to the north and R3W (multi-family residential in West Lafayette) to the south.

AREA LAND USE PATTERNS AND SITE HISTORY:

On site is a three-story, twenty-unit apartment building. The building, constructed in 1988, has been the subject of multiple approved, denied and withdrawn variance requests that were triggered when INDOT purchased land to expand the right-of-way of Wiggins Street in order to construct the exit ramp leading to North River Road. This purchase in 1997, took the conforming parking lot for this apartment building as well as a medical clinic on the corner of Wiggins and Salisbury. (It also left the apartments with a 0' front setback that is legally complying based on UZO 5-1-6a.) INDOT originally purchased the subject apartment building as well, making it a "total take," but later decided not to raze the building, but to sell it with the adjacent-to-the-west parking lot for the no-longer-existing medical clinic. Unfortunately for the new property owner, this parking lot was inadequate to meet most of the UZO parking standards and the following variances were filed:

- BZA-1474: 7/1998—to permit parking in the front setback, approved; to eliminate the 5' no-parking setback on the side and rear, approved; allow parking within the vision triangle, withdrawn;
- BZA-1476: 8/1998—to reduce parking from the required 45 to 35 spaces, denied; vary all requirements of UZO 4-6-6 regarding parking for handicapped accessibility, denied;
- BZA-1504: 6/1999—to reduce parking from 44 to 35 spaces, denied.

The denied parking variances put that petitioner in a difficult situation; however it was one of his own making. He had purchased an apartment building and parking lot from the state which could not be utilized. Petitioner's solution was to reduce the size of some of the twenty apartments. Parking in the University-proximate area of West Lafayette is based on the square footage of the units.

Unit Type	Square Footage	Required Parking Spaces
A	825 and over	3.0
B	650-824	2.25
C	470-649	1.6
D	Under 470	1.1
Efficiency		1.0

The layout of this multi-family building was 20 Type B units which under the University-proximate standards, would have required 45 parking spaces. When these variances were denied, petitioner decided to add interior walls and create unused dead space in the building, keeping the total at 20 units, but decreasing square footage so that instead of 20 Type B units, the building had (and currently has) 4 Type B units and 16 Type C units. Petitioner's actions made the apartments small enough so that the 35 parking space limitation could adequately meet ordinance standards.

TRAFFIC AND TRANSPORTATION:

Located on a very narrow, triangular-shaped property where Littleton ends in a cul-de-sac at US 231, the required parking is adjacent to the structure and is accessed solely off of Salisbury. There is street parking with no time limits along Salisbury, Littleton, and on the north side of Fowler in the vicinity (however, since the cul-de-sac is smaller than normal, there is no parking permitted there). A site visit in the morning during normal class times found six to seven open parking spaces in petitioner's lot and every available spot taken on nearby streets. Nearby apartment buildings' lots were nearly completely full.

STAFF COMMENTS:

This multi-family building was constructed with 20 Type B units and a 45 space conforming parking lot to the north. The actions of the state created this situation, when it re-sold the building with a smaller, 35 space parking area attached to the west. After his parking variances were denied, the solution the former petitioner came up with, (to build interior walls and create dead space to make the unit sizes smaller) was not ideal, but it did allow the building to be used.

The current owner now wants to remove those walls, utilizing all of the dead space that was created to comply with ordinance requirements. The current breakdown of unit type in the building is 16 Type C units and 4 Type B units with a total of 60 bedrooms. Petitioner's current plans would create 1 Type C unit, 16 Type B units, and 3 Type A units. In doing so, no new tenants would be added, and there would be no change to the number of bedrooms. This new layout would require a total of 47 parking spaces (two more than the original apartment layout required).

As noted above, a site visit during morning classes at Purdue, showed six to seven empty parking spaces in the lot in question. Staff learned, during a conversation with petitioner, that tenants sign a lease agreement with the understanding that each of the twenty apartments gets a single parking space. If additional parking spaces are needed, tenants can choose to pay an additional amount for that right.

Staff has stated recently the need to review the University-proximate area parking standards to reflect the one per one bedroom standard that has proven successful in planned developments. UZO Amendment 68, which was denied by West Lafayette City Council in December 2010, would have updated the parking standards in the Village and surrounding areas. That amendment would have changed petitioner's parking requirement from 47, based on the proposed unit sizes to 60, based on number of bedrooms.

Staff believes the state and the former property owner share culpability for creating this situation in the first place and staff agrees that having areas of dead space in apartment units to meet a parking requirement is ridiculous, especially since the reduction in apartment size has no effect on number of tenants. Realistically, the number of residents should be the deciding factor when determining required parking, not the size of the rooms. It appears the owner of the building has come up with a way to address the parking lot problem (which may have the unfortunate effect of increasing on-street parking in the area, but at least puts residents on notice of the site's parking limitations).

The two former parking space variances on this site were denied because there was no hardship as defined in the UZO. Self-imposed situations cannot be considered "hardships," and since that petitioner bought the site from the state and was aware of the parking situation at the time his purchase was made, staff and the BZA considered it a self-imposed situation. The ownership has changed over the years, but the lack of an ordinance-created hardship remains. Indeed as bizarre as the former petitioner's solution was, it did make the apartment building a conforming use; because a conforming use exists on the site, there is no ordinance-created hardship.

Regarding the ballot items:

1. The Area Plan Commission at its April 18, 2012 meeting determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. Petitioner is not adding bedrooms that would increase the number of tenants and push more cars into the existing number of parking spaces.
3. Because the existing parking spaces and number of tenants have been in existence since 1999, the use and value of the area adjacent to the property **WILL NOT** be affected in a substantially adverse manner if this variance were granted.

4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. There is nothing “common” about this case. Typically, variances are requested either on new construction or when additional bedrooms are added. In this case, petitioner is not adding additional bedrooms or units, just changing the configuration of space that was used inefficiently; however,
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. Although staff agrees opening up the dead space in the units makes sense, the fact remains that as the building currently stands, it is conforming. Clearly a conforming use of the property is possible since it exists on site; therefore there is no hardship.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS NOT** solely based on a perceived reduction of or restriction on economic gain. Petitioner is only seeking to improve upon the existing available space.

5b. Because petitioner is not increasing the number of bedrooms or tenants and the parking situation has been in compliance for over 10 years, the variance sought **DOES** provide only the minimum relief needed to alleviate the hardship.

STAFF RECOMMENDATION:

Denial